

REMARKS

This application has been carefully reviewed in light of the Office Action dated March 20, 2003 (Paper No. 7). Claims 1 to 7 and 9 to 29 are in the application, with Claims 8 and 30 to 94 being cancelled. Claim 1 is the sole independent claim.

Reconsideration and further examination are respectfully requested.

Claims 23 to 27 and 29 to 94 were withdrawn from consideration pursuant to a restriction requirement. Withdrawn Claims 30 to 94 have been cancelled without prejudice to Applicants' right to present these claims in a later-filed divisional application. Applicants have not cancelled withdrawn Claims 23 to 27 and 29, for the foregoing reasons.

It is believed that Claims 23 and 24 were inadvertently included in the list of Group II claims, since Group II was identified as being drawn to a method, and Claims 23 and 24 are clearly drawn to an apparatus for manufacturing a product. See, for example, MPEP 806.05(g). Accordingly, withdrawal of the restriction requirement with respect to Claims 23 and 24 is respectfully requested.

Applicants further submit that restriction should not be required between the combination of Claim 29 and the subcombination of the Group I claims, since the Examiner has not provided evidence that the combination of Claim 29 is patentable without the details of the subcombination of Claim 1. See MPEP 806.05(c)II. In this regard, Claim 29 depends from Claim 1, and as such, contains all of the details of Claim 1. Accordingly, withdrawal of the restriction requirement with respect to Claim 29 is respectfully requested.

Regarding withdrawn Claims 25 to 27, re-joinder of these claims is respectfully requested, pursuant to MPEP § 821.04, once Claim 1 receives an indication of allowability.

Claims 1 to 22 and 28 were rejected under 35 U.S.C. § 112, second paragraph. Applicants have carefully reviewed and amended Claims 1, 4 to 7, 9, 12 to 14, 19, 21 and 22 to attend to the issues raised in the Office Action, except for the rejection based on the recitation of the term "filler". In more detail, the Office Action asserts that the term "filler" is given a meaning repugnant to the usual meaning of that term. Applicants respectfully disagree. As used in the application and as defined in Webster's Third New International Dictionary (1986), a filler is something that fills. Claim 1 recites that the fiber is impregnated with a filler. Clearly, the term "filler" is used by Claim 1 to mean a material for filling the fiber.

The Office Action took the position that no reasonably definite meaning could be ascribed to the language of Claim 6, and as such, refused to examine Claims 6 to 8, 10 to 13, 18 and 19 on the merits. Applicants submit that the scope of amended Claim 6, and of its dependent claims, is clear to one skilled in the art in light of the specification. See, for example, Fig. 12A and page 26, lines 15 to 17, of the present specification.

In view of the foregoing, reconsideration and withdrawal of the Section 112 rejection are respectfully requested.

Claims 1 to 5, 9, 14 to 17 and 20 were rejected under 35 U.S.C. § 102(b) over U.S. Patent No. 5,474,620 (Nath).¹ Reconsideration and withdrawal of the rejection are respectfully requested, in view of the following comments.

The present invention, as recited by amended Claim 1, concerns a facing material which includes a flame resistive fiber and a filler. The flame resistive fiber has a sheet-like shape with first and second surface sides, and includes a waterproofing layer and a flame resistive layer. The waterproofing layer is formed by impregnating a portion of the first surface side with the filler. The flame resistive layer includes a portion of the second surface side not impregnated with the filler.

Thus, according to one feature of the invention, the flame resistive layer includes a portion of the second surface side which is not impregnated with filler. By virtue of this feature, fire protection performance can be improved. See, for example, page 11, lines 12 to 15, of the present specification.

Nath is not seen to teach or suggest at least the foregoing feature.

It is true that Nath discloses impregnating a glass fiber (25a) with a layer of thermoplastic polymer (25b). However, both surface sides of the glass fiber (25a) are completely impregnated with the polymer (25b). See, for example, Fig. 1D of Nath.

This can be contrasted to the embodiment shown in Fig. 1 of the present invention, in which a waterproofing layer (1) is formed by impregnation of a first surface side of the facing material with the filler, and a flame resistive layer (2) includes a second surface side portion of the facing material that has not been impregnated with filler.

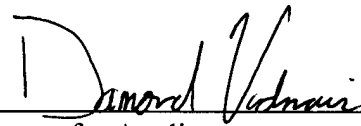
¹The Office Action does not include Claim 14 in the list of claims rejected under § 102(b). Applicants' undersigned attorney telephoned the Examiner regarding this matter, and the Examiner indicated that Claim 14 was inadvertently omitted.

Applicants conclude that Nath does not teach or suggest the claimed invention, and it is therefore respectfully requested that the Section 102 rejection be withdrawn.

No other matters being raised, it is believed that the entire application is fully in condition for allowance, and such action is courteously solicited.

Applicants' undersigned attorney may be reached in our Costa Mesa, California office at (714) 540-8700. All correspondence should continue to be directed to our below-listed address.

Respectfully submitted,



Attorney for Applicants

Registration No. 52,310

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-2200
Facsimile: (212) 218-2200

CA_MAIN 65463 v 1